



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1281

Introduced 2/18/2015, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Act on the Aging. Provides that the Department on Aging has the power and duty to develop the content and format of a statement regarding non-recourse reverse mortgage loans under a specified provision of the Illinois Banking Act. Provides that the statement shall provide independent consumer information regarding the potential benefits and risks associated with non-recourse reverse mortgages, potential alternatives to non-recourse reverse mortgages, and the availability of independent counseling services, including services provided by nonprofit agencies certified by the federal government to provide required counseling for non-recourse reverse mortgages insured by the federal government. Amends the Illinois Banking Act. Provides that a reverse mortgage may be subject to any additional terms and conditions imposed by a lender that are required under the provisions of the federal Housing and Community Development Act of 1987 to enable the lender to obtain federal government insurance on mortgage borrowers 62 years of age or older if the loans are to be insured under that Act. Makes changes to provisions concerning the definition of a "reverse mortgage" and other definitions, repayment obligations under a reverse mortgage, disclosure requirements, restrictions on cross-selling, and certification requirements. Repeals a provision that regulated reverse mortgages. Amends the Savings Bank Act. Repeals a provision concerning reverse mortgage disclosures. Amends the Illinois Credit Union Act. Removes a provision concerning credit unions making reverse mortgages. Removes the definition of "real estate". Amends the Residential Mortgage License Act of 1987. Makes corresponding changes requiring licensees to follow the requirements of the Illinois Banking Act.

LRB099 08118 MGM 28267 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Act on the Aging is amended by
5 changing Section 4.01 as follows:

6 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

7 Sec. 4.01. Additional powers and duties of the Department.

8 In addition to powers and duties otherwise provided by law, the
9 Department shall have the following powers and duties:

10 (1) To evaluate all programs, services, and facilities for
11 the aged and for minority senior citizens within the State and
12 determine the extent to which present public or private
13 programs, services and facilities meet the needs of the aged.

14 (2) To coordinate and evaluate all programs, services, and
15 facilities for the Aging and for minority senior citizens
16 presently furnished by State agencies and make appropriate
17 recommendations regarding such services, programs and
18 facilities to the Governor and/or the General Assembly.

19 (2-a) To request, receive, and share information
20 electronically through the use of data-sharing agreements for
21 the purpose of (i) establishing and verifying the initial and
22 continuing eligibility of older adults to participate in
23 programs administered by the Department; (ii) maximizing

1 federal financial participation in State assistance
2 expenditures; and (iii) investigating allegations of fraud or
3 other abuse of publicly funded benefits. Notwithstanding any
4 other law to the contrary, but only for the limited purposes
5 identified in the preceding sentence, this paragraph (2-a)
6 expressly authorizes the exchanges of income, identification,
7 and other pertinent eligibility information by and among the
8 Department and the Social Security Administration, the
9 Department of Employment Security, the Department of
10 Healthcare and Family Services, the Department of Human
11 Services, the Department of Revenue, the Secretary of State,
12 the U.S. Department of Veterans Affairs, and any other
13 governmental entity. The confidentiality of information
14 otherwise shall be maintained as required by law. In addition,
15 the Department on Aging shall verify employment information at
16 the request of a community care provider for the purpose of
17 ensuring program integrity under the Community Care Program.

18 (3) To function as the sole State agency to develop a
19 comprehensive plan to meet the needs of the State's senior
20 citizens and the State's minority senior citizens.

21 (4) To receive and disburse State and federal funds made
22 available directly to the Department including those funds made
23 available under the Older Americans Act and the Senior
24 Community Service Employment Program for providing services
25 for senior citizens and minority senior citizens or for
26 purposes related thereto, and shall develop and administer any

1 State Plan for the Aging required by federal law.

2 (5) To solicit, accept, hold, and administer in behalf of
3 the State any grants or legacies of money, securities, or
4 property to the State of Illinois for services to senior
5 citizens and minority senior citizens or purposes related
6 thereto.

7 (6) To provide consultation and assistance to communities,
8 area agencies on aging, and groups developing local services
9 for senior citizens and minority senior citizens.

10 (7) To promote community education regarding the problems
11 of senior citizens and minority senior citizens through
12 institutes, publications, radio, television and the local
13 press.

14 (8) To cooperate with agencies of the federal government in
15 studies and conferences designed to examine the needs of senior
16 citizens and minority senior citizens and to prepare programs
17 and facilities to meet those needs.

18 (9) To establish and maintain information and referral
19 sources throughout the State when not provided by other
20 agencies.

21 (10) To provide the staff support that may reasonably be
22 required by the Council.

23 (11) To make and enforce rules and regulations necessary
24 and proper to the performance of its duties.

25 (12) To establish and fund programs or projects or
26 experimental facilities that are specially designed as

1 alternatives to institutional care.

2 (13) To develop a training program to train the counselors
3 presently employed by the Department's aging network to provide
4 Medicare beneficiaries with counseling and advocacy in
5 Medicare, private health insurance, and related health care
6 coverage plans. The Department shall report to the General
7 Assembly on the implementation of the training program on or
8 before December 1, 1986.

9 (14) To make a grant to an institution of higher learning
10 to study the feasibility of establishing and implementing an
11 affirmative action employment plan for the recruitment,
12 hiring, training and retraining of persons 60 or more years old
13 for jobs for which their employment would not be precluded by
14 law.

15 (15) To present one award annually in each of the
16 categories of community service, education, the performance
17 and graphic arts, and the labor force to outstanding Illinois
18 senior citizens and minority senior citizens in recognition of
19 their individual contributions to either community service,
20 education, the performance and graphic arts, or the labor
21 force. The awards shall be presented to 4 senior citizens and
22 minority senior citizens selected from a list of 44 nominees
23 compiled annually by the Department. Nominations shall be
24 solicited from senior citizens' service providers, area
25 agencies on aging, senior citizens' centers, and senior
26 citizens' organizations. The Department shall establish a

1 central location within the State to be designated as the
2 Senior Illinoisans Hall of Fame for the public display of all
3 the annual awards, or replicas thereof.

4 (16) To establish multipurpose senior centers through area
5 agencies on aging and to fund those new and existing
6 multipurpose senior centers through area agencies on aging, the
7 establishment and funding to begin in such areas of the State
8 as the Department shall designate by rule and as specifically
9 appropriated funds become available.

10 (17) To develop the content and format of a statement
11 regarding non-recourse reverse mortgage loans under Section
12 6.1 of the Illinois Banking Act. The statement shall provide
13 independent consumer information regarding the potential
14 benefits and risks associated with non-recourse reverse
15 mortgages, potential alternatives to non-recourse reverse
16 mortgages, and the availability of independent counseling
17 services, including services provided by nonprofit agencies
18 certified by the federal government to provide required
19 counseling for non-recourse reverse mortgages insured by the
20 federal Government. ~~To develop the content and format of the~~
21 ~~acknowledgment regarding non-recourse reverse mortgage loans~~
22 ~~under Section 6.1 of the Illinois Banking Act; to provide~~
23 ~~independent consumer information on reverse mortgages and~~
24 ~~alternatives; and to refer consumers to independent counseling~~
25 ~~services with expertise in reverse mortgages.~~

26 (18) To develop a pamphlet in English and Spanish which may

1 be used by physicians licensed to practice medicine in all of
2 its branches pursuant to the Medical Practice Act of 1987,
3 pharmacists licensed pursuant to the Pharmacy Practice Act, and
4 Illinois residents 65 years of age or older for the purpose of
5 assisting physicians, pharmacists, and patients in monitoring
6 prescriptions provided by various physicians and to aid persons
7 65 years of age or older in complying with directions for
8 proper use of pharmaceutical prescriptions. The pamphlet may
9 provide space for recording information including but not
10 limited to the following:

11 (a) name and telephone number of the patient;

12 (b) name and telephone number of the prescribing
13 physician;

14 (c) date of prescription;

15 (d) name of drug prescribed;

16 (e) directions for patient compliance; and

17 (f) name and telephone number of dispensing pharmacy.

18 In developing the pamphlet, the Department shall consult
19 with the Illinois State Medical Society, the Center for
20 Minority Health Services, the Illinois Pharmacists Association
21 and senior citizens organizations. The Department shall
22 distribute the pamphlets to physicians, pharmacists and
23 persons 65 years of age or older or various senior citizen
24 organizations throughout the State.

25 (19) To conduct a study of the feasibility of implementing
26 the Senior Companion Program throughout the State.

1 (20) The reimbursement rates paid through the community
2 care program for chore housekeeping services and home care
3 aides shall be the same.

4 (21) From funds appropriated to the Department from the
5 Meals on Wheels Fund, a special fund in the State treasury that
6 is hereby created, and in accordance with State and federal
7 guidelines and the intrastate funding formula, to make grants
8 to area agencies on aging, designated by the Department, for
9 the sole purpose of delivering meals to homebound persons 60
10 years of age and older.

11 (22) To distribute, through its area agencies on aging,
12 information alerting seniors on safety issues regarding
13 emergency weather conditions, including extreme heat and cold,
14 flooding, tornadoes, electrical storms, and other severe storm
15 weather. The information shall include all necessary
16 instructions for safety and all emergency telephone numbers of
17 organizations that will provide additional information and
18 assistance.

19 (23) To develop guidelines for the organization and
20 implementation of Volunteer Services Credit Programs to be
21 administered by Area Agencies on Aging or community based
22 senior service organizations. The Department shall hold public
23 hearings on the proposed guidelines for public comment,
24 suggestion, and determination of public interest. The
25 guidelines shall be based on the findings of other states and
26 of community organizations in Illinois that are currently

1 operating volunteer services credit programs or demonstration
2 volunteer services credit programs. The Department shall offer
3 guidelines for all aspects of the programs including, but not
4 limited to, the following:

5 (a) types of services to be offered by volunteers;

6 (b) types of services to be received upon the
7 redemption of service credits;

8 (c) issues of liability for the volunteers and the
9 administering organizations;

10 (d) methods of tracking service credits earned and
11 service credits redeemed;

12 (e) issues of time limits for redemption of service
13 credits;

14 (f) methods of recruitment of volunteers;

15 (g) utilization of community volunteers, community
16 service groups, and other resources for delivering
17 services to be received by service credit program clients;

18 (h) accountability and assurance that services will be
19 available to individuals who have earned service credits;

20 and

21 (i) volunteer screening and qualifications.

22 The Department shall submit a written copy of the guidelines to
23 the General Assembly by July 1, 1998.

24 (24) To function as the sole State agency to receive and
25 disburse State and federal funds for providing adult protective
26 services in a domestic living situation in accordance with the

1 Adult Protective Services Act.

2 (25) To hold conferences, trainings, and other programs for
3 which the Department shall determine by rule a reasonable fee
4 to cover related administrative costs. Rules to implement the
5 fee authority granted by this paragraph (25) must be adopted in
6 accordance with all provisions of the Illinois Administrative
7 Procedure Act and all rules and procedures of the Joint
8 Committee on Administrative Rules; any purported rule not so
9 adopted, for whatever reason, is unauthorized.

10 (Source: P.A. 98-8, eff. 5-3-13; 98-49, eff. 7-1-13; 98-380,
11 eff. 8-16-13; 98-756, eff. 7-16-14.)

12 Section 10. The Illinois Banking Act is amended by changing
13 Sections 6.1 and 6.2 and by adding Sections 6.3, 6.4, 6.5, 6.6,
14 6.7, and 6.8 as follows:

15 (205 ILCS 5/6.1) (from Ch. 17, par. 313.1)

16 Sec. 6.1. Non-recourse reverse mortgage loans.

17 ~~(a) It is the intent of this amendatory Act of 1991 that~~
18 ~~homeowners at least 62 years of age be permitted to meet their~~
19 ~~financial needs by accessing the equity in their homes through~~
20 ~~a reverse mortgage. The General Assembly recognizes that many~~
21 ~~restrictions and requirements that exist to govern traditional~~
22 ~~mortgage transactions are inapplicable in the context of~~
23 ~~reverse mortgages. In order to foster reverse mortgage~~
24 ~~transactions and better serve the citizens of this State, this~~

1 ~~Section authorizes the making of reverse mortgages, and~~
2 ~~expressly relieves reverse mortgage lenders and borrowers from~~
3 ~~compliance with inappropriate requirements.~~

4 ~~As used in this Section, "borrower" means any homeowner who~~
5 ~~is, or whose spouse is, at least 62 years of age.~~

6 (a) For purposes of this Section, "real property" includes
7 a manufactured home as defined in subdivision (53) of Section
8 9-102 of the Uniform Commercial Code which is real property as
9 defined in Section 5-35 of the Conveyance and Encumbrance of
10 Manufactured Homes as Real Property and Severance Act.

11 As used in this Section, "reverse mortgage" means a
12 non-recourse loan, secured by real property or a homestead
13 property, that complies with all of the following:

14 (1) Provides cash advances to a borrower based on the
15 equity in a borrower's owner-occupied principal residence,
16 provided that it is a residence with ~~designed to be~~
17 ~~occupied by~~ not more than 4 units ~~families~~.

18 (2) Requires no payment of principal or interest until
19 the entire loan becomes due and payable.

20 (b) Reverse mortgage loans shall be subject only to all of
21 the following provisions:

22 (1) Payment, in whole or in part, shall be permitted
23 without penalty at any time during the term of the
24 mortgage.

25 (2) A reverse mortgage may provide for an interest rate
26 that is fixed or adjustable and may provide for interest

1 that is contingent on appreciation in the value of the
2 property.

3 (3) If a reverse mortgage provides for periodic
4 advances to a borrower, the advances may not be reduced in
5 amount or number based on any adjustment in the interest
6 rate.

7 (4) A reverse mortgage may be subject to any additional
8 terms and conditions imposed by a lender that are required
9 under the provisions of the federal Housing and Community
10 Development Act of 1987 to enable the lender to obtain
11 federal government insurance on ~~the mortgage~~ borrowers 62
12 years of age or older if the loans are to be insured under
13 that Act.

14 (c) The repayment obligation under a reverse mortgage is
15 subject to all of the following:

16 (1) (Blank). ~~Temporary absences from the home not~~
17 ~~exceeding 60 consecutive days shall not cause the mortgage~~
18 ~~to become due and payable.~~

19 (2) Temporary absences from the home ~~exceeding 60 days,~~
20 ~~but~~ not exceeding one year shall not cause the mortgage to
21 become due and payable, ~~provided that the borrower has~~
22 ~~taken action that secures the home in a manner satisfactory~~
23 ~~to the lender.~~

24 (3) The lender must disclose any interest or other fees
25 to be charged during the period that commences on the date
26 the mortgage becomes due and payable and ends when

1 repayment in full is made in accordance with applicable
2 State and federal laws, rules, and regulations.

3 (d) A reverse mortgage shall become due and payable upon
4 the occurrence of any of the following events:

5 (1) The ~~real~~ property securing the loan is sold.

6 (2) All borrowers cease to occupy the home as a
7 principal residence.

8 (3) A fixed maturity date agreed to by the lender and
9 the borrower is reached.

10 (4) Default by the borrower in the performance of its
11 obligations under the loan agreement. ~~An event that is~~
12 ~~specified in the loan documents and that jeopardizes the~~
13 ~~lender's security occurs.~~

14 (5) The death of the borrower, or, for homestead
15 properties in joint tenancy, the death of the last
16 surviving joint tenant who had an interest in the property
17 at the time the loan was initiated.

18 (e) (Blank). ~~No reverse mortgage commitment may be made by~~
19 ~~a lender unless the loan applicant attests, in writing, that~~
20 ~~the applicant has received from the lender, at the time of~~
21 ~~initial inquiry, a statement prepared by the Department on~~
22 ~~Aging regarding the advisability and availability of~~
23 ~~independent information and counseling services on reverse~~
24 ~~mortgages.~~

25 (f) For purposes of this Section, "homestead property"
26 means the domicile and contiguous real estate owned and

1 occupied by the borrower.

2 (g) For purposes of this Section, "real property" and
3 "homestead property" include a manufactured home as defined in
4 subdivision (53) of Section 9-102 of the Uniform Commercial
5 Code which is real property as defined in Section 5-35 of the
6 Conveyance and Encumbrance of Manufactured Homes as Real
7 Property and Severance Act.

8 (Source: P.A. 98-749, eff. 7-16-14.)

9 (205 ILCS 5/6.2)

10 Sec. 6.2. Non-recourse reverse mortgages; good faith
11 dealings; fraudulent or deceptive practices. ~~Reverse mortgage;~~
12 ~~disclosure.~~ A licensee must act in good faith in all relations
13 with a borrower, including, but not limited to, transferring,
14 dealing in, offering, or making a reverse mortgage loan. No
15 licensee shall employ fraudulent or deceptive acts or practices
16 in the making of a reverse mortgage loan, including deceptive
17 marketing and sales efforts. ~~At the time a reverse mortgage~~
18 ~~loan is made, the lender must provide to the mortgagor a~~
19 ~~separate document that informs the mortgagor that by obtaining~~
20 ~~the reverse mortgage the mortgagor's eligibility to obtain a~~
21 ~~tax deferral under the Senior Citizens Real Estate Tax Deferral~~
22 ~~Act may be adversely affected. The mortgagor must sign the~~
23 ~~disclosure document as part of the reverse mortgage~~
24 ~~transaction.~~

25 (Source: P.A. 92-577, eff. 6-26-02.)

1 (205 ILCS 5/6.3 new)

2 Sec. 6.3. Non-recourse reverse mortgages; counseling
3 disclosure. At the time of initial inquiry regarding a reverse
4 mortgage, a licensee must provide to the borrower a document
5 regarding reverse mortgage counseling. The licensee may not
6 steer, direct, recommend, or otherwise encourage a client to
7 seek the services of any one particular counselor or counseling
8 agency. This document shall be in at least 12-point font,
9 contain contact information (including agency name, address,
10 telephone number, and website) for all agencies with an office
11 in Illinois that are approved by the U.S. Department of Housing
12 and Urban Development (HUD) to conduct reverse mortgage
13 counseling and contain the following statement:

14 "IMPORTANT NOTICE: Under Illinois law, reverse mortgages
15 are non-recourse loans secured by real or homestead property.
16 Reverse mortgages insured by the federal government, known as
17 Home Equity Conversion Mortgages, or HECM loans, require people
18 considering reverse mortgages to get counseling from a
19 federally approved counselor working for a HECM counseling
20 agency prior to closing on the loan. The purpose of the
21 counseling is to help the prospective borrower understand the
22 financial implications, alternatives to securing a reverse
23 mortgage, borrower obligations, costs of obtaining the loan,
24 repayment conditions, and other issues. Counseling can also be
25 a benefit to people considering reverse mortgages not insured

1 by the federal government.

2 There are advantages to receiving this counseling in
3 person, but it can also be conducted over the telephone.
4 Illinois State law requires that prospective reverse mortgage
5 borrowers be provided a list including contact information for
6 all agencies with an office in Illinois that are approved by
7 the U.S. Department of Housing and Urban Development (HUD) to
8 conduct reverse mortgage counseling. Contact information for
9 approved counseling agencies located outside of Illinois is
10 available from HUD."

11 (205 ILCS 5/6.4 new)

12 Sec. 6.4. Non-recourse reverse mortgages; Department on
13 Aging disclosure. At the time of initial inquiry regarding a
14 reverse mortgage, a licensee shall provide to the applicant a
15 statement prepared by the Department on Aging under Section
16 4.01 of the Illinois Act on the Aging.

17 (205 ILCS 5/6.5 new)

18 Sec. 6.5. Non-recourse reverse mortgages; Senior Citizens
19 Real Estate Tax Deferral Act disclosure. At the time of initial
20 inquiry regarding a reverse mortgage, a licensee must provide
21 to the applicant a separate document and in at least 22-point
22 font that informs the applicant that obtaining a reverse
23 mortgage may adversely affect the applicant's eligibility to
24 obtain a tax deferral under the Senior Citizens Real Estate Tax

1 Deferral Act.

2 (205 ILCS 5/6.6 new)

3 Sec. 6.6. Non-recourse reverse mortgages; 7-day cooling
4 off period; disclosure. A borrower shall not be bound for 7
5 days after the borrower's acceptance, in writing, of a lender's
6 written commitment to make a reverse mortgage loan and cannot
7 be required to close or proceed with the loan during that time
8 period. A borrower may revoke his or her acceptance within this
9 7-day period. A borrower may not waive the provisions of this
10 Section. At the time of making a written commitment, the lender
11 shall provide the borrower a separate document in at least
12 22-point font that contains the following statement:

13 "IMPORTANT NOTICE REGARDING COOLING OFF PERIOD: Illinois
14 State Law requires a 7-day cooling off period for reverse
15 mortgage loans, during which time a potential borrower cannot
16 be required to close or proceed with the loan. The purpose of
17 this requirement is to provide potential borrowers additional
18 time to consider whether a reverse mortgage loan is in their
19 best interest. Potential borrowers may want to seek additional
20 information and an analysis of the commitment from a reverse
21 mortgage counselor during this 7-day period. The 7-day cooling
22 off period cannot be waived."

23 (205 ILCS 5/6.7 new)

24 Sec. 6.7. Non-recourse reverse mortgages; restriction on

1 cross-selling. No lender or licensee under the Residential
2 Mortgage License Act of 1987 may:

3 (1) require the purchase of an annuity, investment, or
4 insurance (including life insurance and long-term care
5 insurance) product as a condition of obtaining a reverse
6 mortgage loan;

7 (2) enter into any agreement to make a reverse mortgage
8 loan that requires the borrower to purchase an annuity,
9 investment, or insurance (including life insurance and
10 long-term care insurance) product; or

11 (3) receive compensation for providing the borrower
12 with information relating to an annuity, investment, or
13 insurance (including life insurance and long-term care
14 insurance) product.

15 (205 ILCS 5/6.8 new)

16 Sec. 6.8. Non-recourse reverse mortgages; certification
17 requirements. No reverse mortgage commitment may be made by a
18 lender unless the applicant, lender, and, if applicable, any
19 licensee under the Residential Mortgage License Act of 1987
20 receiving compensation or gain, either directly or indirectly,
21 related to the reverse mortgage, certify, in writing, that:

22 (1) the applicant has received from the lender or
23 licensee, at the time of initial inquiry, the statement
24 prepared by the Department on Aging required in Section 6.4
25 of this Act regarding the advisability and availability of

1 independent information and counseling services on reverse
2 mortgages.

3 (2) if applicable, that the applicant has received
4 federally mandated housing counseling from an agency
5 approved by the U.S. Department of Housing and Urban
6 Development to conduct reverse mortgage counseling and
7 that the counseling was conducted in person, unless the
8 certification specifies that the applicant elected to
9 receive the counseling in a manner other than in person.

10 (3) if applicable, that the reverse mortgage product
11 did not have any federally mandated counseling requirement
12 and specifying whether the loan applicant received
13 counseling or chose not to get counseling.

14 (4) if applicable, the date of the counseling and the
15 name, address, and telephone number of the counseling
16 agency and counselor.

17 (5) the applicant has received from the lender or
18 licensee, at the time of initial inquiry, the document
19 required in Section 6.5 of this Act that informs the
20 applicant that by obtaining the reverse mortgage, the
21 applicant's eligibility to obtain a tax deferral under the
22 Senior Citizens Real Estate Tax Deferral Act may be
23 adversely affected.

24 (6) the applicant has received from the lender, at the
25 time a written commitment was made to the applicant to
26 provide a reverse mortgage loan, the disclosure document

1 required in Section 6.6 regarding the 7-day cooling off
2 period and that at least 7 days have passed since the
3 document was provided. The certification shall also
4 include the date the cooling off period disclosure was
5 provided.

6 (7) the reverse mortgage loan does not include any
7 current or future requirement for the applicant to purchase
8 an annuity, investment, or insurance (including life
9 insurance and long-term care insurance) product.

10 The certification regarding these requirements shall be in
11 a separate document in at least 12-point font. The lender shall
12 maintain the certification in an accurate, reproducible, and
13 accessible format for the term of the reverse mortgage.

14 (205 ILCS 5/5a rep.)

15 Section 15. The Illinois Banking Act is amended by
16 repealing Section 5a.

17 (205 ILCS 205/1010 rep.)

18 Section 20. The Savings Bank Act is amended by repealing
19 Section 1010.

20 Section 25. The Illinois Credit Union Act is amended by
21 changing Sections 46 and 46.1 as follows:

22 (205 ILCS 305/46) (from Ch. 17, par. 4447)

1 Sec. 46. Loans and interest rate.

2 (1) A credit union may make loans to its members for such
3 purpose and upon such security and terms, including rates of
4 interest, as the credit committee, credit manager, or loan
5 officer approves. Notwithstanding the provisions of any other
6 law in connection with extensions of credit, a credit union may
7 elect to contract for and receive interest and fees and other
8 charges for extensions of credit subject only to the provisions
9 of this Act and rules promulgated under this Act, except that
10 extensions of credit secured by residential real estate shall
11 be subject to the laws applicable thereto. The rates of
12 interest to be charged on loans to members shall be set by the
13 board of directors of each individual credit union in
14 accordance with Section 30 of this Act and such rates may be
15 less than, but may not exceed, the maximum rate set forth in
16 this Section. A borrower may repay his loan prior to maturity,
17 in whole or in part, without penalty. The credit contract may
18 provide for the payment by the member and receipt by the credit
19 union of all costs and disbursements, including reasonable
20 attorney's fees and collection agency charges, incurred by the
21 credit union to collect or enforce the debt in the event of a
22 delinquency by the member, or in the event of a breach of any
23 obligation of the member under the credit contract. A
24 contingency or hourly arrangement established under an
25 agreement entered into by a credit union with an attorney or
26 collection agency to collect a loan of a member in default

1 shall be presumed prima facie reasonable.

2 (2) Credit unions may make loans based upon the security of
3 any interest or equity in real estate, subject to rules and
4 regulations promulgated by the Secretary. In any contract or
5 loan which is secured by a mortgage, deed of trust, or
6 conveyance in the nature of a mortgage, on residential real
7 estate, the interest which is computed, calculated, charged, or
8 collected pursuant to such contract or loan, or pursuant to any
9 regulation or rule promulgated pursuant to this Act, may not be
10 computed, calculated, charged or collected for any period of
11 time occurring after the date on which the total indebtedness,
12 with the exception of late payment penalties, is paid in full.

13 For purposes of this subsection (2) of this Section 46, a
14 prepayment shall mean the payment of the total indebtedness,
15 with the exception of late payment penalties if incurred or
16 charged, on any date before the date specified in the contract
17 or loan agreement on which the total indebtedness shall be paid
18 in full, or before the date on which all payments, if timely
19 made, shall have been made. In the event of a prepayment of the
20 indebtedness which is made on a date after the date on which
21 interest on the indebtedness was last computed, calculated,
22 charged, or collected but before the next date on which
23 interest on the indebtedness was to be calculated, computed,
24 charged, or collected, the lender may calculate, charge and
25 collect interest on the indebtedness for the period which
26 elapsed between the date on which the prepayment is made and

1 the date on which interest on the indebtedness was last
2 computed, calculated, charged or collected at a rate equal to
3 1/360 of the annual rate for each day which so elapsed, which
4 rate shall be applied to the indebtedness outstanding as of the
5 date of prepayment. The lender shall refund to the borrower any
6 interest charged or collected which exceeds that which the
7 lender may charge or collect pursuant to the preceding
8 sentence. The provisions of this amendatory Act of 1985 shall
9 apply only to contracts or loans entered into on or after the
10 effective date of this amendatory Act.

11 (3) (Blank). ~~Notwithstanding any other provision of this~~
12 ~~Act, a credit union authorized under this Act to make loans~~
13 ~~secured by an interest or equity in real estate may engage in~~
14 ~~making "reverse mortgage" loans to persons for the purpose of~~
15 ~~making home improvements or repairs, paying insurance premiums~~
16 ~~or paying real estate taxes on the homestead properties of such~~
17 ~~persons. If made, such loans shall be made on such terms and~~
18 ~~conditions as the credit union shall determine and as shall be~~
19 ~~consistent with the provisions of this Section and such rules~~
20 ~~and regulations as the Secretary shall promulgate hereunder.~~
21 ~~For purposes of this Section, a "reverse mortgage" loan shall~~
22 ~~be a loan extended on the basis of existing equity in homestead~~
23 ~~property and secured by a mortgage on such property. Such loans~~
24 ~~shall be repaid upon the sale of the property or upon the death~~
25 ~~of the owner or, if the property is in joint tenancy, upon the~~
26 ~~death of the last surviving joint tenant who had such an~~

1 ~~interest in the property at the time the loan was initiated,~~
2 ~~provided, however, that the credit union and its member may by~~
3 ~~mutual agreement, establish other repayment terms. A credit~~
4 ~~union, in making a "reverse mortgage" loan, may add deferred~~
5 ~~interest to principal or otherwise provide for the charging of~~
6 ~~interest or premiums on such deferred interest. "Homestead"~~
7 ~~property, for purposes of this Section, means the domicile and~~
8 ~~contiguous real estate owned and occupied by the mortgagor.~~

9 (4) Notwithstanding any other provisions of this Act, a
10 credit union authorized under this Act to make loans secured by
11 an interest or equity in real property may engage in making
12 revolving credit loans secured by mortgages or deeds of trust
13 on such real property or by security assignments of beneficial
14 interests in land trusts.

15 For purposes of this Section, "revolving credit" has the
16 meaning defined in Section 4.1 of the Interest Act.

17 Any mortgage or deed of trust given to secure a revolving
18 credit loan may, and when so expressed therein shall, secure
19 not only the existing indebtedness but also such future
20 advances, whether such advances are obligatory or to be made at
21 the option of the lender, or otherwise, as are made within
22 twenty years from the date thereof, to the same extent as if
23 such future advances were made on the date of the execution of
24 such mortgage or deed of trust, although there may be no
25 advance made at the time of execution of such mortgage or other
26 instrument, and although there may be no indebtedness

1 outstanding at the time any advance is made. The lien of such
2 mortgage or deed of trust, as to third persons without actual
3 notice thereof, shall be valid as to all such indebtedness and
4 future advances from the time said mortgage or deed of trust is
5 filed for record in the office of the recorder of deeds or the
6 registrar of titles of the county where the real property
7 described therein is located. The total amount of indebtedness
8 that may be so secured may increase or decrease from time to
9 time, but the total unpaid balance so secured at any one time
10 shall not exceed a maximum principal amount which must be
11 specified in such mortgage or deed of trust, plus interest
12 thereon, and any disbursements made for the payment of taxes,
13 special assessments, or insurance on said real property, with
14 interest on such disbursements.

15 Any such mortgage or deed of trust shall be valid and have
16 priority over all subsequent liens and encumbrances, including
17 statutory liens, except taxes and assessments levied on said
18 real property.

19 (4-5) For purposes of this Section, "real estate" and "real
20 property" include a manufactured home as defined in subdivision
21 (53) of Section 9-102 of the Uniform Commercial Code which is
22 real property as defined in Section 5-35 of the Conveyance and
23 Encumbrance of Manufactured Homes as Real Property and
24 Severance Act.

25 (5) Compliance with federal or Illinois preemptive laws or
26 regulations governing loans made by a credit union chartered

1 under this Act shall constitute compliance with this Act.

2 (6) Credit unions may make residential real estate mortgage
3 loans on terms and conditions established by the United States
4 Department of Agriculture through its Rural Development
5 Housing and Community Facilities Program. The portion of any
6 loan in excess of the appraised value of the real estate shall
7 be allocable only to the guarantee fee required under the
8 program.

9 (7) For a renewal, refinancing, or restructuring of an
10 existing loan that is secured by an interest or equity in real
11 estate, a new appraisal of the collateral shall not be required
12 when the transaction involves an existing extension of credit
13 at the credit union, no new moneys are advanced other than
14 funds necessary to cover reasonable closing costs, and there
15 has been no obvious or material change in market conditions or
16 physical aspects of the real estate that threatens the adequacy
17 of the credit union's real estate collateral protection after
18 the transaction.

19 (Source: P.A. 97-133, eff. 1-1-12; 98-749, eff. 7-16-14;
20 98-784, eff. 7-24-14; revised 10-2-14.)

21 (205 ILCS 305/46.1) (from Ch. 17, par. 4447.1)

22 Sec. 46.1. Non-recourse reverse mortgage loans. Any credit
23 union authorized under this Act to make loans secured by an
24 interest or equity in real estate may make non-recourse reverse
25 mortgage loans as provided in Section 6.1 of the Illinois

1 Banking Act.

2 ~~For purposes of this Section, "real estate" includes a~~
3 ~~manufactured home as defined in subdivision (53) of Section~~
4 ~~9-102 of the Uniform Commercial Code that is real property as~~
5 ~~defined in Section 5-35 of the Conveyance and Encumbrance of~~
6 ~~Manufactured Homes as Real Property and Severance Act.~~

7 (Source: P.A. 98-749, eff. 7-16-14.)

8 (205 ILCS 305/46.2 rep.)

9 Section 30. The Illinois Credit Union Act is amended by
10 repealing Section 46.2.

11 Section 35. The Residential Mortgage License Act of 1987 is
12 amended by changing Section 5-5 as follows:

13 (205 ILCS 635/5-5)

14 Sec. 5-5. Reverse mortgages; ~~disclosure; good faith~~
15 ~~dealings, fraudulent or deceptive practices.~~ Licensees engaged
16 in the business of brokering, funding, originating, servicing,
17 or purchasing funding of non-recourse reverse mortgage loans as
18 defined in Section 6.1 of the Illinois Banking Act are required
19 to comply with Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8 of
20 the Illinois Banking Act.

21 ~~(a) At the time a reverse mortgage loan is made or~~
22 ~~brokered, a licensee must provide to the mortgagor a separate~~
23 ~~document that informs the mortgagor that by obtaining the~~

1 ~~reverse mortgage the mortgagor's eligibility to obtain a tax~~
2 ~~deferral under the Senior Citizens Real Estate Tax Deferral Act~~
3 ~~may be adversely affected. The mortgagor must sign the~~
4 ~~disclosure document as part of the reverse mortgage~~
5 ~~transaction.~~

6 ~~(b) A licensee must act in good faith in all relations with~~
7 ~~a borrower, including but not limited to, transferring, dealing~~
8 ~~in, offering, or making a reverse mortgage loan. No licensee~~
9 ~~shall employ fraudulent or deceptive acts or practices in the~~
10 ~~making of a reverse mortgage loan, including deceptive~~
11 ~~marketing and sales efforts.~~

12 (Source: P.A. 92-577, eff. 6-26-02; 93-863, eff. 8-5-04.)

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 105/4.01	from Ch. 23, par. 6104.01
4	205 ILCS 5/6.1	from Ch. 17, par. 313.1
5	205 ILCS 5/6.2	
6	205 ILCS 5/6.3 new	
7	205 ILCS 5/6.4 new	
8	205 ILCS 5/6.5 new	
9	205 ILCS 5/6.6 new	
10	205 ILCS 5/6.7 new	
11	205 ILCS 5/6.8 new	
12	205 ILCS 5/5a rep.	
13	205 ILCS 205/1010 rep.	
14	205 ILCS 305/46	from Ch. 17, par. 4447
15	205 ILCS 305/46.1	from Ch. 17, par. 4447.1
16	205 ILCS 305/46.2 rep.	
17	205 ILCS 635/5-5	